

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2343 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No.

DINESH PRATAPSIKH JADEJA

Versus

STATE OF GUJARAT

Appearance:

MR NAVIN PAHWA FOR M/S THAKKAR ASSOC. for Petitioner
MR HL JANI AGP for the Respondents.

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 11/08/98

ORAL JUDGEMENT

The Police Commissioner, Ahmedabad City, has passed an order dated 29-1-98 under Section 3 (1) of the Gujarat Prevention of Anti-Social Activities Act, 1985 (hereinafter referred to as "the PASA Act") and has recorded the subjective satisfaction that the petitioner is a dangerous person within the meaning of Section 2 (c) of the PASA Act and with a view to preventing him from

acting in any manner prejudicial to the maintenance of public order, it is necessary to pass an order of detention against him. The legality and validity of this order of detention has been challenged by the petitioner by way of this petition under Article 226 of the Constitution of India.

For recording the said subjective satisfaction that the petitioner is a dangerous person, the detaining authority has placed reliance on four criminal cases which are pending in the Court of law for the offences punishable under Sections 324, 452, 506(1), 294 (b), 326, 337, and 114 of the IPC and section 135(1) of the Bombay Police Act. There is one more criminal case registered against the petitioner for offences under sections 143, 147, 148, 149, 337, 354 IPC , section 135(1) of the Bombay Police Act and section 3(1)(x) of the Atrocities Act in respect of which the investigation was going on when the order of detention was passed . Over and above these criminal cases , reliance is also placed on the statements of four witnesses whose identity has not been disclosed claiming privilege under Section 9(2) of the PASA Act for the incidents alleged to have taken place on 15-12-97 and 20-12-97. On 15-12-97, the petitioner with his associate came to the place of business of the witness, purchased certain articles and when the witness demanded money for the same, the petitioner got excited and took away Rs.500/- from the cash-box of the witness. As regards the incident of 20-12-97, the petitioner again came with his associate and demanded HAPTA amount and when the witness refused the petitioner took away Rs.200/- from his cash box. On both the occasions when the witness shouted, the petitioner took out knife and gave threats; people gathered to witness the incident and when the petitioner rushed towards the crowd, they started running helter-skelter and an atmosphere of fear and terror was created and the even tempo of life was disturbed.

On the basis of the aforesaid material, the detaining authority recorded a finding that the petitioner is a dangerous person within the meaning of Section 2(c) of the PASA Act and with a view to preventing him from acting in any manner prejudicial to the maintenance of public order, passed the impugned order of detention against the petitioner, which has been challenged by the petitioner by way of this petition.

This petition is required to be allowed on the ground that even if the allegations made against the petitioner are accepted as true for the sake of

arguments, the same at best can be treated as breach of law and order and not public order. I have gone through the statements of the witnesses which are stereo-type . Reading the same, it clearly establishes without any manner of doubt that the statements are quite general and vague in nature and the alleged incidents are against individuals and the general public is not concerned at all and, therefore, it cannot be contended that the petitioner is involved in committing breaches of public order. Even if the allegations made are believed to be true, the same at best can be termed as breach of law and order and in no circumstances the same can be termed as breach of public order. Consequently, therefore, the satisfaction arrived at by the detaining authority that the petitioner is a dangerous person is also visited . The order of detention is therefore liable to be quashed and set aside.

In the result, this petition is allowed. The order of detention dated 29-1-98 is quashed and set aside. The detenu Dinesh @ Bhuriyo Pratapsinh Jadeja is ordered to be released forthwith if not required in connection with any other offence. Rule is made absolute accordingly with no order as to costs.

Verified copy